IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 279 OF 2006

Vinayak S. Sawant ...Petitioners.

Versus

New Aradhana Co.op. Housing Society
Ltd., & Ors. ...Respondents.

Shri S.A.Sawant for the Petitioner.

Mrs. Meena Kshirsagar i/b Shri S.R.Misra for Respondent No.1.

Shri R.M.Patne A.G.P for respondent Nos.2 to 4.

CORAM : S.C.DHARMADHIKARI,J.

DATE : 24th JANUARY, 2006.

P.C. :

1. The Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai is obviously in error in holding that the Revision Application preferred by the petitioner to challenge the certificate issued under Section 101 of the Maharashtra Co-operative Societies Act, 1960, cannot be considered for admission because the petitioner/applicant has not deposited 50% of the recoverable dues with the first respondent Society. In other words, the Divisional Joint Registrar insists on compliance with the provision (Section 154(2A)) of the Maharashtra Co-operative Societies Act, before it is considered for

admission.

2. The Counsel appearing for the respondents were unable to point-out to me any such mandate flowing from Section 154 (2A) of the Maharashtra Co-operative Societies Act, 1960. The words used, advisedly, in the provision in question are that no Revision Application shall be entertained. The word "entertained" and the words "considered for admission" are distinct in their meaning and effect in law. As long as the compliance is not done, the Revision Application cannot be heard. The plain mandate of the provision and the word "entertained" has to be considered in that light. The Supreme Court has considered identical provisions and interpreting them has observed that the word "entertained" does not mean at the threshold or at the stage of filing or admission necessarily (see AIR 1992 SC 2279)(Shyam Kishore and Ors. V/s. Municipal Corporation of Delhi & Ors.). There is no provision, either in the Act or the Rules, for admission of Revision Application. When the Revision Applications are accepted on the file of the Divisional Joint Registrar, all that Section 154(2A) contemplates in cases covered thereby is that they shall not be heard unless compliance is made with the requirement of deposit of 50% amount. Therefore, the Revision Applications could not have been rejected at the

threshold. They are directed to be restored to file. However, the same shall not be considered and decided until compliance is made with the provision, referred to above. The order under challenge is, therefore, set-aside. The Revision Application is restored to file. Needless to observe that the Divisional Joint Registrar shall deal with and decide the same after there is compliance with the aforesaid provision.

(S.C.DHARMADHIKARI,J.)